

## SUMMARY STATEMENT

The Idaho Supreme Court affirmed the award by the district court of attorney fees in favor of Ascorp, Inc., d/b/a Debco Construction against the Idaho Department of Transportation in an action involving a state highway project in Twin Falls, Idaho, known as the Washington Street Project. The Department brought the action to challenge the procedure whereby Debco Construction sought arbitration of amounts claimed due under the construction contract. The district court dismissed the action and awarded fees to Debco as the prevailing party. The Department filed a notice of appeal from the dismissal order and from the attorney fees award. While the appeal was pending, the parties settled the claim but pursued the appeal with regard to whether the district court was correct in making the fee award. The Supreme Court held that the district did not err because the action commenced by the Department was based on a provision allowing arbitration in a commercial transaction contract, and under Idaho Code section 12-120(3) the prevailing party could receive an award of attorney fees.